

### **REMARKS**

Reconsideration and allowance of the claims are requested in view of the above amendments and the following remarks. In the instant amendment, no claims are amended and claim 4 was cancelled without disclaimer or prejudice. No new matter has been added.

In the Office Action, claims 1-11, 14-24 and 27-36 are rejected under 35 U.S.C. § 103(a) as being obvious based on the combination of U.S. Patent No. 7,015,954 to Foote *et al.* (hereinafter “Foote”) and U.S. Patent Application Publication No. 2003/0052971 by Gutta, *et al.* (hereinafter “Gutta”). Claims 12-13 and 25-26 are rejected under 35 U.S.C. § 103(a) as being obvious based on the combination of Foote, Gutta and U.S. Patent No. 4,396,945 to DiMatteo (hereinafter “DiMatteo”). Applicants traverse all of the rejections in the Office Action.

#### **I. Disqualification Of Gutta Reference Under 37 CFR 1.131**

Applicants submit herewith declarations of inventors Takeo Kanade (Ex. 1), Robert Collins (Ex. 2), and Omead Amidi (Ex. 3). Applicants submit that the declarations establish, under 37 CFR 1.131,: (i) that the currently claimed invention was conceived prior to September 17, 2001; and (ii) diligence at least from September 17, 2001 through the filing date of the instant application on October 23, 2001.

Applicants submit that the Gutta reference may qualify as prior art only under 35 U.S.C. § 102(e). Applicants note that the Gutta reference was published on March 20, 2003, after the filing date of the current application (which is October 23, 2001). Accordingly, the Gutta reference can only qualify as prior art relative to the current application under 35 U.S.C. § 102(e) by virtue of Gupta’s September 17, 2001 filing date. The concurrently submitted declarations, however, establish that the subject matter of the currently rejected claims was invented at least prior to September 17, 2001 and that the inventors exercised diligence from September 17, 2001 to October 23, 2001 in getting the application filed. Accordingly, Gutta does not qualify as prior art under 35 U.S.C. § 102(e) because Gutta was not filed before the inventors of the present application invented the subject matter of the presently pending claims. *See* 37 CFR 1.131; MPEP § 2136.03.

## **II. Obviousness Rejections**

The Office Action rejected every pending claim under 35 U.S.C. § 103 and relying, at least in part, on the Gutta reference. Gutta, however, does not qualify as prior art under 35 U.S.C. § 102. Consequently, the Office Action fails to establish *prima facie* obviousness with respect to any of the currently pending claims 1-3, and 5-36.

Furthermore, even if Gutta qualifies as prior art, the Office has failed to establish *prima facie* obviousness of independent claim 1 at least because it has misconstrued the scope and content of the Foote reference, and failed to provide a proper rationale to combine Foote and Gutta. *See* § MPEP § 2141(II); § 2142.

**First**, the Office asserts that Foote teaches, “a surround-view image generator . . . responsive to the command from the control unit for generating a surround-view video sequence of the fixation point.” *See* Office Action at p. 3. The Office asserts that this feature is met by Foote’s “Patch Tiling and Blending” step 1220. *See id.* Applicants submit that Foote does not teach any sort of “surround-view video sequence.” This is at least because, as Applicants successfully pointed out in the response filed on May 17, 2010, Foote fails to teach or suggest “a plurality of non-moving image capture devices positioned to substantially surround the scene.” *See* 5/17/10 Response at p. 17. In fact, the video cameras 10, 12 and 14 of Foote do not surround any scene. *See* Foote at Figures 1A, 1B and 1C. Applicants submit that it is impossible for Foote to generate a “surround-view video sequence” in the absence of images from cameras that “substantially surround” a scene.

**Second**, Applicants submit that the Office has failed to provide a proper rationale to combine Gutta and Foote. The Office asserts that, “it would have been obvious for one having skill in the art at the time of the invention to modify the invention of Foote with the Gutta. (sic) The advantage would be the ability to accommodate and adjust an image when a partial image is detected.” *See* Office Action. Applicants point out, however, that Gutta describes an embodiment with cameras that are not stationary and, in fact, are movable about respective camera axes. *See* Gutta at ¶ 16. The Office has based its obviousness rejection on the advantages of applying Foote’s control hardware and software with Gutta’s movable cameras. The Office has provided no reason, however, suggesting that the control hardware of Foote,

tailored to stationary cameras, would even be operable when implemented with movable cameras like Gutta's.

For at least these reasons, Applicants submit that the Office has failed to establish *prima facie* obviousness of independent claim 1 and claims 2-3 and 5-17 that depend therefrom. Applicants note that independent claims 27 and 37 include limitations similar to those of claim 1 described above and, therefore, the Office has failed to establish *prima facie* obviousness of claims 27, 37 and claims 28-32 and 38-42 that, respectively, depend therefrom for similar reasons.

### CONCLUSION

Applicants respectfully submit that all of the claims presented in the present application are in condition for allowance. Applicants' present amendment should not in any way be taken as acquiescence to any of the specific assertions, statements, etc., presented in the Office Action not explicitly addressed herein. Applicants reserve the right to address specifically all such assertions and statements in subsequent responses. Applicants also reserve the right to seek claims of a broader or different scope in a continuation application.

Applicants do not otherwise concede the correctness of the Office Action's rejection with respect to any of the dependent claims. Accordingly, Applicants reserve the right to make additional arguments as may be necessary to distinguish further the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

Applicants have made a diligent effort to properly respond to the Office Action and believe that the claims are in condition for allowance. If the Examiner has any remaining

concerns, the Examiner is invited to contact the undersigned at the telephone number set forth below so that such concerns may be expeditiously addressed.

Respectfully submitted,



---

Mark G. Knedeisen  
Reg. No. 42,747

Date: September 27, 2010

K&L GATES LLP  
K&L Gates Center  
210 Sixth Ave.  
Pittsburgh, Pennsylvania 15222

Ph. (412) 355-6342  
Fax (412) 355-6501  
Email: mark.knadeisen@klgates.com